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(b) Whether circulars were issued to teachers in all or some of the primary schools in the Sriperumbudur taluk to bring children to Poonamallee to attend the function ;

Circulars were issued only to a few schools in and around Poonamallee.

and

Whether children were actually brought to Poonamallee ? Yes.

(c) What was the object of getting children to attend the function ? To enable them and their parents to understand the benefit of the compulsory education scheme.

APPENDIX IX.

[Vide item XI—The Madras Services Commission Bill at page 62 supra.]

REPORT OF THE SELECT COMMITTEE ON THE MADRAS SERVICES COMMISSION BILL, 1929.

BILL No. 5 OF 1929

To

THE HONOURABLE THE
LEGISLATIVE COUNCIL OF THE
GOVERNOR OF MADRAS.

We, the undersigned members of the Select Committee, appointed to consider the Madras Services Commission Bill (Bill No. 5 of 1929), have the honour to submit the following report.

2. The Bill was published in the *Fort St. George Gazette* in English on 22nd January 1929.

3. The Committee met on the 16th February at Madras and on the 27th, 28th, 29th and 31st May at Ootacamund for consideration of the Bill.

4. After a careful consideration of the detailed provisions of the Bill, we have accepted them in the main.

5. Clause 6 of the Bill empowers the Commission in its discretion to appoint a secretary on a salary not exceeding one thousand and five hundred rupees, but provides that such appointment shall be "subject to the previous approval of the Local Government." We consider that a Commission entrusted with the responsible functions referred to in Chapter III need not be required to obtain the previous consent of the Local Government to the appointment of its own secretary and that it may be left not only to appoint

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its own secretary but, subject to the proviso which already exists regarding the salary of a secretary who is a Government servant at the time of his appointment, to fix his salary also. The words "subject to the previous approval of the Local Government" in clause 6 have therefore been omitted.

6. As the expenditure incurred under clauses 6 and 7 of the Bill would be expenditure the amount of which is prescribed "under a law" it would be non-votable under section 72-D (2) (iii) of the Government of India Act. And if any question arises whether it is non-votable or not, the Governor would, under section 72-D (3) of the Government of India Act, be the proper authority to decide the question. It is open to the local legislature to prescribe the amount of an expenditure, but in a case where the amount of an expenditure has not been prescribed or where it is doubtful whether such amount has been prescribed or not, it cannot provide that it shall be "deemed to have been prescribed." We have therefore deleted clause 8.

7. The proviso to clause 11 empowers the Local Government, in case an appointment has to be made by them, to appoint if they think fit an officer to be present at the interview referred to in sub-clause (iii) of the clause. The last paragraph of the clause provides "Nothing in the proviso shall entitle the officer appointed under it to vote on any question to be decided by the Commission." We think that it is important that an officer appointed by the Local Government to be present at the interview should have no further powers and that the last paragraph of clause 11 is liable to be construed as empowering the officer to do everything except vote on any question to be decided by the Commission. We consider that the proviso as it stands makes it sufficiently clear that the officer has no other right than to be present at the interview under sub-clause (iii) and that the last paragraph of clause 11 introduces an element of doubt on the point. We have therefore deleted it.

8. Clause 20 of the Bill disqualifies for a service or post any candidate therefor who exercises or attempts to exercise what is defined in the clause as undue influence on the Chairman or a Member of the Commission. While we are anxious that in the actions and proceedings of the Commission, the highest standards of fairness and purity should be maintained and that there should be no room even for a suspicion of a departure from such standards, we are of opinion that the subject matter of the clause is eminently one which relates to the procedure of the Commission and fit to be regulated by rules and conventions rather than by an express statutory provision and that a statutory provision on the point is undesirable. In fact, a statutory provision may lead to complications. In the Public Service Commission (Function) Rules made under section 96-C of the Government of India Act a similar provision does not exist. We have therefore omitted clause 20.

9. We consider that the rules made under clause 21 of the Bill should not come into effect without an opportunity being given to the Legislative Council to pronounce its opinion on their suitability and have accordingly provided that the rules shall be laid in draft before the Legislative Council for a period of three months before they can take effect.

10. We have also made a few other verbal amendments which do not require special notice.

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11. A copy of the Bill as amended by the Select Committee is appended. We consider that the Bill as amended does not require republication.

S. KUMARASWAMI.
N. E. MARJORIBANKS.
A. KRISHNASWAMI.
V. I. MUNISWAMI PILLAI.
P. SUBBARAYAN.
MAHMUD SCHAMNAD.
J. A. SALDANHA. *
T. ADINARAYANA CHETTI. *
O. V. VENKATARAMANA AYYANGAR. *
K. P. RAMAN MENON. *
S. MUHAMMAD MEERA RAVUTTAR. *
A. B. SHETTY. *
R. FOULKES.
B. MUNISWAMI NAYUDU.
K. KOCHINI NAYAR.
(Muppil Nayar of Kavalappara).
A. RANGANATHAM. *

* Subject to a minute of dissent.

MINUTES OF DISSENT.

I

The Bill derives its authority from delegation given and under rules made by the Government of India which subject our Council to a number of humiliating restrictions. The rules should, I think, be sought to be changed in the right direction before the Bill is further pressed. I may point out these restrictions. Firstly, the Commissioners may be appointed only by the Secretary of State in Council, the Governor-General in Council or the Governor in Council, the last excluding evidently the Ministers. Secondly, as rule 5 stands at present the Commission can only be an advisory body. The Bill only enables Government to add a new department to the Secretariat, its members being appointed by, and removable at pleasure of, Government, a body so dependent and capable of giving advice only when called upon to do so. With the removal of clause 20, which, in my opinion, should be retained in public interests, the Commission will be at the mercy of office-hunters and their friends swarming into its sanctum, unless the Commission is disposed to shut out outside or backdoor influences. Besides the Commissioners are subject to no educational, service or professional qualifications. I propose therefore to send in amendments to cure these and other defects in the Bill, if it is not dropped as unwanted. In my view, unless there is going to be a comprehensive Bill on right lines consistent

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with the principles observed in advanced democratic countries giving us a Commission on a par with the High Court appointed by the Crown there is no point served by having legislation of the description now placed before the Council.

3rd May 1929.

J. A. SALDANHA.

II

When the Bill was introduced in the Legislative Council and referred to a Select Committee, it was expected by many members that it would undergo some important changes in the Select Committee. But if one peruses the Bill as it has emerged out of the Committee it would be clear that it is practically the same as it was when referred to the Committee. Myself and some other members of the Committee tried our best in the Committee to make some important changes with a view to render the Commission useful and independent; but our efforts have completely failed. The very idea of appointing a Commission is to have an independent body not liable to any outside influences whatever, and that this is the object of the Bill is clear from the provision in clause 4, in which it is clearly stated that no member of the Commission, including the Chairman, shall be appointed as such unless he has previously given a written undertaking that he will not at any time, either during his service on the Commission or afterwards, accept any other office under the Crown in any place in India.

My first attempt in the Select Committee was therefore to make all the members including the Chairman of the Commission as independent as possible, and therefore I wanted an amendment to be passed, that the appointment and removal of these officers shall not vest either in the Governor in Council or the Governor; but that these officers should be appointed and removed by the Governor-General or Governor-General in Council. That my view is reasonable and has got a precedent is clear from the fact that the Chairman and other members of the Indian Public Services Commission are appointed by the Secretary of State in Council, and the Governor-General or the Governor-General in Council has absolutely no powers over them. Under the present Bill, the term of the Chairman as well as of other members is indefinite, so that they can expect to continue for ever, till they attain the sixtieth year, if only they are able to command the good-will of the Governor in Council. Whatever may be said about their appointment, the fact that they can be removed at will by the Governor in Council and the fact that after that removal they cannot take up any other appointment under the Crown in India should certainly go together to make them anything but independent, under ordinary circumstances. Even according to Delegation Rule No. 5 of the Secretary of State in Council, this Act may provide that the members of the Commission should be appointed by the Governor in Council, Governor-General in Council or the Secretary of State in Council, and therefore there is nothing in that rule to prevent the appointment and the removal of the members of this Commission, including its Chairman, by the Governor-General or the Governor-General in Council. I am therefore strongly of opinion that the appointment and the removal, or at least the removal, of the members including the Chairman should only be in the hands of the Governor-General in Council or the Governor-General. Also, I think that the term of membership of these officers should be limited to five years which is the period for the members of

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the Indian Public Services Commission; and if anyone proves to be a very satisfactory officer there may be provision in the Act for renewing his appointment by the Governor-General or the Governor-General in Council, for another period of five years.

The next question I want to deal with is with reference to the pay of the Chairman and the other members. The Bill provides that the Chairman shall be paid a salary of Rs. 3,000 per mensem, and that every other member shall get Rs. 2,000 per mensem. I am strongly of opinion that the salaries fixed for these persons under the Bill are rather high. I am one of those who believe that, considering the poverty of the country and the great competition for Government appointments, especially in higher grades, the salaries of people at the top should be reduced as much as possible with a view to make an effective retrenchment in the expenses of Local Governments. I believe that even the members of the Indian Officers' Association, Madras, presented a memorandum to the Lee Commission, that they would, under ordinary circumstances, be satisfied with a maximum salary of Rs. 1,000 per month, provided the salaries of corresponding European officers were also reduced proportionately. And I remember that on my motion a resolution was passed in the first Reformed Council that the salaries of all higher officers should be reduced by one-third. For all these reasons, I am strongly of opinion that it will be more than enough if the Chairman is paid Rs. 2,000 a month and every other member Rs. 1,500 each per month. As for the pay of Secretary, for which the maximum is fixed at Rs. 1,500 under the Bill, I would like it to be reduced to Rs. 1,000, or at least it might be made a graded one, from Rs. 750 to Rs. 1,500.

Then coming to the important question regarding the functions of the Commission which are dealt with in Part II of the Bill, as it now stands, it is only the Local Government that may refer any question to the Commission for its advice in some cases, under clause 9, while it is bound to refer some other questions for their advice under section 16 of the Bill. It is a well-known fact that the Governor has himself the power of making some appointments at present, and there is nothing to prevent rules being made hereafter empowering the Governor to make a larger number of appointments. I want, therefore, in addition to the Local Government the Governor also is authorized, or required, as the case may be, to refer all matters connected with appointments or removals of officers by him to the opinion of the Commission.

My next point is that the Commission's powers are only advisory, even so far as the Local Government is concerned and what is more, the Government is not bound to refer all questions connected with recruitment to the Commission; for clause 3 says only that the Local Government *may* refer to it any questions in connexion with recruitment, and the Commission shall give its advice to the Government only on such questions. I am strongly of opinion that the Local Government should be bound to refer to the Commission every question connected with recruitment, and that in all matters in which the Commission gives its advice to the Government, the Government should be bound to act up to the recommendation of the Commission, unless for strong reasons, which should be recorded in writing, and there may be a safeguard that where the Government differs from the Commission on any important or fundamental questions it should be with the consent of the

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Governor-General. I would therefore like section 9 to be amended properly on the lines suggested above and similar amendments should also, in my opinion, be made in clauses 16 and 17 of the Bill.

Then, there is an important provision in clause 13, under which the Commission, whose powers are very much restricted under the present Bill, should, in exercising its restricted functions, again observe the rules made by the Local Government regarding the constitution of or recruitment to any service or post. This, I consider, is extremely dangerous; for the Government, even if all the changes suggested by me above are given effect to, can practically make the Commission unnecessary or useless; for rules may be made in such a way as to make the functions of the Commission to be practically nothing or make its recommendations practically nugatory. I would therefore suggest that the rules referred to in clause 13 should be made by the Governor-General in Council or at least by the Local Government with the previous consent of the Governor-General in Council; and I would like to suggest a similar provision to be made applicable to the rules made by the Local Government under clause 21 of the Bill also.

It may be said that many of my suggestions should be considered as being out of order in view of the delegation rules made by the Secretary of State. But I do not see why, apart from these rules, the local legislature has no powers of its own to make laws connected with the services of the Local Government, without any authority from the Secretary of State. And even granting for the sake of argument that the power of the legislature to make such an enactment is derived only from the delegation rules and that any of the suggestions I have made above are against those rules, I am strongly of opinion that there is absolutely no use in having the Commission as under the present Bill, and that we can very well wait for some time to have the rules changed so as to give wider powers to the legislature in this matter. It was with that view that I moved an adjournment for three months of the consideration of the whole Bill—with a view to have the delegation rules changed. But my motion was defeated in the Select Committee. If my suggestions made above are not accepted, I am afraid that this Commission will only be a costly and ornamental body serving no purpose whatever from the public point of view. To give only one example, the Commission may, under clause 14, hold an examination and prepare a list of successful candidates according to merit and yet the Local Government are not bound to appoint in that order and not even to appoint any one in that list but may appoint any one they please even outside the list. It may be suggested that if the Commission is appointed, the Local Government will be under no necessity to get the previous sanction of the Governor-General in Council for making the first appointment to the provincial services as required by rule 3 of the delegation rules, because such a consent is necessary only if the first appointment is not made on the result of a competitive examination or on the advice of a permanent board of selection appointed by the Local Government or of the Indian Public Services Commission. The Local Government seems to think that the Commission appointed under this Act would be a permanent board of selection appointed by the Local Government as required under the rule. Even supposing that his opinion of the Government is correct, I am strongly against the Commission coming into existence under the present Bill; for, as I have said above, it will not be serving public interests, and I am afraid it will rather be doing harm, as the Local Government will then be free to

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make any appointment it pleases with the help of the Commission and without the safeguard provided for under the rules, of getting the previous consent of the Governor-General in Council. But I have got serious doubts as to whether this Commission would be a permanent board of selection referred to under the rules; because, the rule clearly says that the permanent board should be appointed by the local Government, whereas if this Bill is passed into an Act, the Commission will be appointed only under the Act, for the number of members, their salaries and functions are all prescribed and limited under the Act, and merely the appointment of the individual members of the Commission by the local Government cannot be taken as the appointment of the board itself by that Government.

Finally, I am strongly of opinion that the Bill should be amended on the lines I have suggested above, even with the previous sanction of the Secretary of State in Council, if necessary, by having a change of the delegation rules. If that is not done, I am clearly of opinion that the Bill as it is will serve no purpose and should be rejected by the Council.

OOTACAMUND,
2nd June 1929.

C. V. VENKATARAMANA AYYANGAR.

III

As regards *clause 4 (1)* I am of opinion that the Chairman as well as the other members should be appointed and be removable not by the local Government but by an outside agency, say, by the Governor-General for the following reasons:—

(i) The members of the Public Services Commission are removable by the Secretary of State and not by the Governor-General.

(ii) An independent Public Services Commission has been found to be indispensable even in self-governing colonies. Even more so should such a Commission be independent in the present state of communal feelings and other peculiar circumstances of this Province.

(iii) The work of a Services Commission is of a quasi-judicial nature and such Commissioners are elsewhere conceded an independence approximating to that of the judiciary.

Speaking of Canada, Mr. MacGregor Dawson says: "Political pressure did not appear; but the Commissioners were in a much stronger position to combat it."

Sir Wilfred Laurier, referring to the Canadian Commission, said: "The new Chairman . . . will be more secure, more independent of everybody and more distinctly liable only to his own conscience than before."

(iv) It is likely that very good men are secured; but it is not to be expected the public will believe them to be as independent as the men who are not so subject to the control of the local Government. On the other hand, if weak men happen to be appointed, there is the justifiable fear that these will become merely distributors of patronage.

(v) The very fact that these are appointed by a superior authority will clothe their actions and decisions with greater weight.

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(vi) It has been urged that such a proposal will not be quite in keeping with Provincial Autonomy. My answer is that we have not yet got Provincial Autonomy and Provincial Autonomy has really nothing to do with this.

As regards the authority that can remove these Commissioners, my arguments for the appointing power being vested in an outside and higher authority apply with even greater force. "In self-governing countries a very large part of the history of the service has centered around the way in which the dismissal clause has been applied."

MacGregor Dawson, whom I have quoted already, referring to conditions in Canada, says, "the fault with the old Canadian Civil Service Board was lack of power and too close intimacy with the Government . . . They held office on too precarious a tenure and were too dependent on the pleasure of Ministers for any of them to risk offending the administration by interfering with its patronage."

Clause 5.—I am for a salary of Rs. 1,000 all round on the principle that in a poor country like India it is a respectable salary. The assumption that an official can be placed absolutely above temptation by paying him a large salary is not an infallible one. Canada pays the President of its Public Services Commission only 10,000 dollars per annum and our Commission after all is only a provincial one.

If, however, it is possible to secure a really independent Commission, I would agree to paying them the salaries proposed in the Bill at least until salaries in this country are reduced all round.

I am also against a pensioner being appointed either as Chairman or Member of this Commission. Occasionally no doubt we come across with a retired official who has managed to retain a virile mind and progressive views. But more often we find them with fixed ideas and it cannot be denied that "officials tend to fossilise."

Clause 9.—I am of opinion that there should be some provision to make it obligatory on the local Government to refer important matters at least to the Commission. As it is there is nothing to prevent the local Government from not referring any matter to this Commission. If the terms of the delegation of powers will not permit this, I would advise postponing the consideration of this Bill for some time so as to obtain the necessary sanction of the Secretary of State to enable this to be done.

In *clause 10 (1)*, I would have the word "determine" in place of "advise the local Government" for the following reasons:—

(i) The local Government, as the clause now stands, may discard the advice of the Commissioners thereby making the Commission an expensive superfluity.

(ii) A Commission such as this is admittedly an expert body and as such it should be given freedom in these matters. If the terms of delegation of powers to the local Government will not admit of such an amendment, I would have instead of "determine," the words: "determine subject to the approval of the local Government"; or advise the local Government to address the Secretary of State for necessary alteration of the terms of the delegation.

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(iii) "Commissioners are primarily administrative, secondly quasi-judicial and lastly only advisory."

Clause 10 (v), as it has been left, gives the power to local Government to discard the whole list and make appointments outside the list—rendering the Commission really impotent and even ridiculous. This should be so amended as to make the Government respect the recommendations of the Commissioners or at least to make it obligatory on the local Government to record their reasons in writing wherever they disregard the recommendations of the Commissioners. The obligation to record reasons will make the Government think and hesitate if they feel like acting arbitrarily, at any time.

Clause 11 (iv), proviso.—I am for deletion of this. It will be found difficult to keep out official interference altogether. If the expert advice of such an official is necessary in the opinion of the Commissioners, it is open to them to appoint Boards for special posts and on such Boards they may invite an official or non-official expert to serve.

Clause 12.—I desired the word "Promotion" should be clearly defined in view of a recent discussion in the Legislative Council on the construction put on this word. I still think the Legislative Council should direct its attention to this matter.

Clause 13.—The official view seems to be that the series of Government Orders issued by Government between (about) March and October 1928, prescribing the number of posts, qualifications and pay for the various departments of Government are as good as the *rules* mentioned in the Bill and that the Services Commission have simply to administer them and such other rules as may be made by the local Government hereafter. As regards the Government Order regarding the Registration department there has been bitter criticism in several quarters and although a motion in the Legislative Council seeking to condemn the policy of Government underlying this particular Government Order did not receive the support of the majority in the Council, I think, in view of the fact that this is a matter affecting the welfare of a very large body of public servants, it is necessary to formulate a complete set of rules and leave it to the Legislative Council to pronounce a formal, direct and decided opinion thereon.

It is not in keeping with modern views of public administration that the power of making rules should for ever be retained in the hands of the executive. If the terms of the delegation of powers do not permit this at present, I would advise delaying the consideration of this Bill until the local Government addresses the Secretary of State and gets the delegation terms altered.

Clause 16, as it is now left, leaves the local Government free not to accept the recommendations of the Commissioners in cases of appeals against, censure, withholding of increment or promotion, suspension, removal and dismissal. I am of opinion that some provision ought to be inserted to make the local Government, ordinarily, respect the recommendations of the Commissioners. A series of rejections of advice by the local Government will reduce the Commission to the position of "a subordinate Committee of Government."

It is a well-understood axiom in all modern administrations that the decisions of an expert body like a Services Commission should be practically final except as regards matters pertaining to finance or policy.

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Clause 17.—The word “shall” may be inserted in place of “may” instead of merely relying on the well-known rule of interpretation that ordinarily “may” means “shall” in such matters.

Clause 21 (2).—In the course of the debate on the introduction of this Bill, it was contended by the hon. Member introducing it, that Government must retain the power of making rules if it is to function at all as a Government. I beg to differ from this view. Section 96-B (2) of Government of India Act clearly contemplates the Secretary of State delegating the power to the provincial legislatures, as well. Modern constitutions elsewhere do not retain these (rule-making) powers (in the hands of the executive) and yet they get on. Holding this view, I am not content with the mere laying of the draft rules on the table of the Legislative Council (for three months) but would like that the Council should consider them and adopt them before they are acted on by Government.

The consideration of this Bill by the Legislative Council may be postponed for a short time until the local Government corresponds with the Government of India and with the Secretary of State and obtain their consent to this being done.

OOFACAMUND,
31st May 1929.

T. ADINARAYANA CHETTI.

IV

I agree with the Report of the Select Committee and have only to add that I do not see why the Bill should penalise persons of 60 and above who preserve good health. I am myself over 60 but feel that I have years of work in me and I know of numerous other persons like me.

CHALAPURAM P.O.,
6th June 1929.

K. P. RAMAN MENON.

V

In clause 3, line 3, I would substitute “not more than four” for “two” since I think it is desirable that the Madras Services Commission should be allowed, if necessary, to have the same number of members as the All-India Public Services Commission.

MANGALORE,
7th June 1929.

A. B. SHETTY.

VI

I agree with the report of the Committee and suggest the following :—

In Chapter IV, clause 4, I propose that of the two members of the Commission one of them should be elected by the members of Madras Legislative Council from amongst the elected members and the other to be elected by the Gazetted officers in the Province, each of them to hold office for a period of three years. Further, out of the three, viz., one Chairman

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and two members of the Commission, two at least shall be Indians. In view of the fact that both the members are elected only for a period of three years sub-clause (3) of clause 4 of Chapter II of Part 1 shall not operate against them.

MADRAS,
13th June 1929.

S. MUHAMMAD MEERA RAVUTTAR.

VII

During our consideration of the Bill it came out very clearly that there is nothing that is proposed to be carried out by the Bill that could not be equally well and effectively carried out by an act of the Executive Government, and that any real advance in the provisions of the Bill rendering the Commission independent and its decisions effective was precluded by the wording (perhaps unintentional) of the Delegation Rules of the Secretary of State for India. So that, the enactment of this Bill, while it does not impose any serious restrictions on the powers of the Executive, strengthens its position still further by making the expenditure connected with the Commission non-votable. So I consider that the Bill should in fairness to the Council be dropped now and re-introduced with suitable modifications only after a reference is made to the Secretary of State for India and the ambiguity in his rules referred to above is removed.

14th June 1929.

A. RANGANATHAM.

BILL No. 5 OF 1929.

THE MADRAS SERVICES COMMISSION BILL, 1929.

(As amended by the Select Committee.)

WHEREAS the Secretary of State for India in Council ^{Preamble.} has made a rule authorizing the local legislature, subject to certain conditions and restrictions, to make laws for the establishment, and for determining the functions, of a Commission to regulate the Public Services of the Presidency of Madras ;

AND WHEREAS it is necessary and expedient to establish a Commission for discharging the functions hereinafter specified in relation to the said Services ;

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AND WHEREAS the previous sanction of the Governor-General has been obtained to the passing of this Act; It is hereby enacted as follows:—

PART I.

CHAPTER I.—PRELIMINARY

Short title,
extent and
commence-
ment.

1. (a) This Act may be called the Madras Services Commission Act, 1929.

(b) It extends to the whole of the Presidency of Madras.

(c) It shall come into force on such date as the Local Government may, by notification in the *Fort St. George Gazette*, appoint.

Definitions.

2. (1) In this Act, unless there is something repugnant in the subject or context—

(a) 'Commission' means 'The Madras Services Commission' established under this Act;

(b) 'Chairman' means the Chairman of the Commission referred to in clause (a);

(c) 'Member' means a member of the Commission referred to in clause (a); and

(d) 'Public Service Commission' means the Commission established under section 96 C of the Government of India Act.

(2) In this Act, the terms 'All-India service', 'provincial service', 'subordinate service' and 'special post' shall have in this Act, the same meaning as they have in the rules made under sub-section (2) of section 96 B of the Government of India Act by the Secretary of State for India in Council, the Governor-General in Council or the Local Government.

CHAPTER II.—CONSTITUTION, STRENGTH, SALARIES AND STAFF OF THE MADRAS SERVICES COMMISSION.

Establishment
of Madras
Services
Commission.

3. There shall be established for the Presidency of Madras a Commission named 'The Madras Services Commission' consisting of a Chairman and two other members for performing the functions hereinafter specified in this Act in respect of the Public services in the said Presidency.

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4. (1) The Chairman and the other members of the Commission shall be appointed and may be removed from office by the Governor in Council.

Appointment and removal of the Chairman and members.

Provided that no order of removal shall be made without the personal concurrence of the Governor of Madras.

(2) No person shall be appointed to be the Chairman or a member, and no Chairman or member shall continue to hold office as such, after he has completed 60 years of age.

(3) No person shall be appointed to be the Chairman or a member unless he has previously given an undertaking in writing to the effect that he will not, either during or after his service on the Commission, accept any other office under the Crown in India except—

(a) if appointed as the Chairman, the office of Chairman or member of the Public Service Commission; and

(b) if appointed as a member, either of the offices mentioned in clause (a) or the office of Chairman of the Commission.

(4) No Chairman or member shall hold during his service on the Commission any other office under the Crown in India.

Nothing in this sub-section shall, however, bar the Chairman or other member having a lien on his post on the Commission while holding the office of Chairman or member of the Public Service Commission or the office of Chairman of the Commission, as the case may be.

5. There shall be paid to the Chairman a salary of three thousand rupees per mensem and to each of the other members a salary of two thousand rupees per mensem.

Salary of the Chairman and Members.

Nothing in this section shall prevent a Chairman or other member who at the time of his appointment as such, is a retired Government servant, from drawing his pension from Government in addition to his salary under this section.

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Appointment
and salary of
Secretary.

6. Subject to the previous approval of the Local Government. The Commission may, in its discretion, appoint a Secretary to the Commission, on such salary not exceeding one thousand and five hundred rupees per mensem as it thinks fit :

Provided that, if the person so appointed is at the time of his appointment a Government servant, his salary shall be fixed with the previous sanction of the Local Government.

Commission's
establish-
ment, etc.

7. It shall be lawful for the Commission and it is hereby empowered to employ such persons as it may deem necessary and incur expenditure for such employment as well as for contingencies, supplies and services and for other expenses connected with its work, up to an aggregate sum of one thousand rupees per mensem :

Provided that if any person so employed is at the time of his appointment a Government servant, his salary shall be fixed with the previous sanction of the Local Government.

Expen-
diture
under
sections 6
and 7 to be
non-
votable.

8. The amount of expenditure incurred under sections 6 and 7 shall be deemed to be prescribed by and under this Act for the purposes of clause (iii) of sub-section (3) of section 72-D of the Government of India Act.

PART II—FUNCTIONS OF THE COMMISSION.

CHAPTER III.—FUNCTIONS OF THE COMMISSION AS TO RECRUITMENT.

Recruitment
generally.

8. 9. The Commission shall advise the Local Government on any question which the Local Government may refer to it in connection with the recruitment to any provincial or subordinate service or special post.

Recruitment
by competi-
tive examina-
tion.

9. 10. Where any competitive examination is to be held in India for the purpose of recruitment to any provincial or subordinate service or special post, the Commission shall—

(i) advise the Local Government in regard to the regulations prescribing

(a) the qualifications of candidates,

(b) the conditions of admission to the examination, and

(c) the syllabus of the examination,

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(ii) announce the number of vacancies to be filled from among the candidates for the examination;

(iii) make all arrangements for the actual conduct of the examination;

(iv) arrange the candidates in order of merit on the results of the examination; and

(v) forward a list of the candidates so arranged to the Local Government.

10. 41. Where recruitment to any provincial or subordinate service or special post is to be made by selection in India the Commission shall—

Recruitment
by selection.

(i) advise the Local Government in regard to the regulations prescribing the qualifications of candidates and the submission of applications;

(ii) announce the number of vacancies, and invite applications;

(iii) consider all applications received and interview such candidates as it considers most suitable for appointment; and

(iv) submit to the Local Government a list consisting of such number, as the Local Government may fix, of the candidates whom the Commission considers most suitable for appointment arranged in the order of preference:

Provided that in case the appointment is to be made by the Local Government, the Local Government may, if they think fit, appoint an officer to be present at the interview referred to in clause (iii).

Nothing in the proviso shall entitle the officer appointed under it to vote on any question to be decided by the Commission.

11. 42. Where recruitment to any permanent post in a provincial service is to be made by promotion from a subordinate service, the Commission shall—

Recruitment
by promotion.

(i) consider the claims of candidates nominated by the head of the department;

(ii) thereafter advise the Local Government in respect of each candidate nominated whether his qualifications are sufficient and whether his record proves him to have the character and ability requisite for the service to which it is proposed to appoint him; and

(iii) arrange the candidates in order of preference.

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Commission
to observe
Statutory
Rules.

12. 43. In the exercise of its functions under sections 9, 10 and 11, 40, 41 and 42, the Commission shall observe the rules, if any, made by the Local Government regarding the constitution of or recruitment to any provincial or subordinate service or special post under sub-section (2) of section 96 B of the Government of India Act.

CHAPTER IV.—FUNCTIONS OF THE COMMISSION TO HOLD EXAMINATIONS FOR PROBATIONERS AND PERSONS ALREADY IN THE SERVICE OF GOVERNMENT.

Examination
for
confirmation
and
promotion.

13. 44. Where any examination is to be held in India to determine whether probationers or officers already in the service of the Local Government have sufficient knowledge of any language or of any law, rules or orders which they may be called upon to administer, or possess any other qualifications including sufficient skill in equitation, which can be tested by examination, to justify their appointment to or promotion in an All-India, provincial or subordinate service or a special post, the Commission shall—

(i) advise the Local Government in regard to regulations prescribing

(a) the conditions of admission to the examination,

(b) the syllabus of the examination, and

(c) the percentage of marks to be obtained for passing the examination;

(ii) make all arrangements for the actual conduct of the examination;

(iii) arrange the successful candidates in order of merit; and

(iv) publish the results in the *Fort St. George Gazette*;

Provided that the Commission shall not undertake any duties under this section in respect of an officer of an All-India service or of any other officer appointed by the Secretary of State in Council or the Governor-General in Council save with the general or special approval of the Governor-General in Council or in the case of persons appointed by the Secretary of State in Council, of the Secretary of State in Council.

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CHAPTER V.—FUNCTIONS OF THE COMMISSION IN
REGARD TO DISCIPLINARY CASES.

14. 15. The provisions of this chapter shall not apply to any person in the Civil Service of the Crown in India, other than a member of a provincial or subordinate service or the holder of a special post under the administrative control of the Local Government. Extent of application.

15. 16. The Local Government shall—

(i) before considering any appeal presented to them under the rules made in that behalf under sub-section (2) of section 96 B of the Government of India Act against any order— Appeals.

- (a) of censure,
- (b) withholding an increment or promotion,
- (c) of reduction to a lower post,
- (d) of suspension,
- (e) of removal, or
- (f) of dismissal, or

(ii) before passing any original order—

- (a) withholding an increment or promotion,
- (b) of reduction to a lower post,
- (c) of removal, or
- (d) of dismissal,

consult the Commission in regard to the order to be passed:

Provided that it shall not be necessary for the Local Government to consult the Commission in any case—

- (a) relating to the termination of probation,
- (b) relating to the reversion to his permanent post of an officer officiating in a higher post,
- (c) relating to the termination of the employment of any officer in accordance with the terms of his contract of employment, or
- (d) in which the Commission has, at any previous stage, given advice as to the order to be passed and no fresh question has thereafter arisen for determination.

16. 17. The Local Government may consult the Commission as to the orders to be passed on any memorial submitted to them by any person to whom the provisions of this Chapter apply. Memorials.

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Records to be
sent to
Commission
on reference.

17. 48. In any case in which the advice of the Commission is sought under section **15** or **16**, ~~46~~ or ~~47~~ the record of the case shall be forwarded to the Commission and the opinion given by the Commission shall form part of the record of the case and shall be communicated to the officer or officers concerned along with the orders of the authority empowered to pass orders on the case.

PART III.

CHAPTER VI.—MISCELLANEOUS.

Vacancy not
to invalidate
acts of
Commission.

18. 49. The proceedings of the Commission shall not be invalidated by any vacancy in the office of the Chairman or a member.

Effect of
undue
influence
on the
Commis-
sion.

20. If any candidate for a service or post, with the recruitment to which the Commission is concerned brings to bear or attempts to bring to bear directly or indirectly by himself or by any other person on his behalf any undue influence on the Commission or on the Chairman or other member thereof he shall be deemed to be disqualified for that service or post.

Explanation.—Undue influence in this section includes—

(i) any attempt by a candidate to obtain an interview with the Chairman or other member except when summoned to appear before the Commission by the Secretary or an official of the Commission authorized in that behalf;

(ii) any attempt by any person to obtain an interview with the Chairman or other member to support directly or indirectly the candidature of the candidate;

(iii) any attempt to influence the Commission or the Chairman or other member thereof by means of any certificates, letters or other documents not called for in the published notice inviting applications; and

(iv) in general, the infliction or threat of infliction of any temporal or spiritual injury, damage, harm or loss or the conferring or offering to confer any material or spiritual benefit or the employment of or the attempt to employ any other means for the purpose of inducing the Commission or the Chairman or other member thereof to exercise the functions vested in it or him under this Act otherwise than according to its or his own judgment of the merits of the case.

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19. 21. (1) The Local Government may make rules Power to
to carry out all or any of the purposes of this Act and make rules.
not inconsistent therewith.

(2) In particular and without prejudice to the generality of the foregoing power, the Local Government may make rules prescribing the procedure to be adopted by the Commission.

(3) Rules made under this section shall be published in the *Fort St. George Gazette* and laid in draft before the Madras Legislative Council for a period of three months while the Council is in session and shall on the expiry of such period be republished and upon such re-publication shall take effect as if enacted in this Act.

APPENDIX X.

[Vide item XII—Papers laid on the table of the House at page 93 supra.]

List of posts on Rs. 500 per mensem and above created during the quarter ending March 1929

A.—PERMANENT—Nil.

B.—TEMPORARY.

(i) EXTENSION OF PREVIOUS SANCTIONS.

Department and designation of posts. (1)	Pay per mensem. (2)	Period of tenure. (3)	Remarks. (4)
<i>General Administration.</i>			
RS.			
<i>Public Works and Labour Department—</i> Assistant Secretary.	500—50—800	From 1st April 1929 to 31st March 1930.	The post was originally sanctioned from 15th August 1927.
<i>Administration of Justice.</i>			
<i>Law (General) Department—</i> Temporary Sub-Judge, Devakota.	650	From 1st March 1929 to 31st March 1929.	Since made permanent from 1st April 1929.
First Additional Sub-Judge, Coimbatore.	650	From 1st March 1929 up to the commencement of the Christmas holidays, 1929.	
Additional Sub-Judge, Chittoor.	650	From 7th January 1929 up to the commencement of the summer recess, 1929.	
Additional Sub-Judge, Telli-cherry.	650	From 1st January 1929 to 1st April 1929.	